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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-893**

Bradley Anderson,
Relator,

vs.

Transit Team, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed March 19, 2012
Affirmed
Collins, Judge***

Department of Employment and Economic Development
File No. 26865763-3

Bradley P. Anderson, St. Anthony, Minnesota (pro se relator)

Transit Team, Inc., Minneapolis, Minnesota (respondent employer)

Lee B. Nelson, Department of Employment and Economic Development, St. Paul,
Minnesota (for department)

Considered and decided by Johnson, Chief Judge; Cleary, Judge; and Collins,
Judge.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

COLLINS, Judge

Appealing from a decision of the unemployment law judge (ULJ) holding that relator is ineligible for unemployment benefits because he had been discharged for employment misconduct, relator argues that (1) the ULJ erred by crediting the employer's version of events over his version; and (2) he did not commit employment misconduct. We affirm.

FACTS

Relator Bradley Anderson worked as a driver for respondent Transit Team, Inc., from January 28, 2008 until October 27, 2010, when he was discharged. Transit Team transports elderly and disabled customers throughout the Twin Cities area. Its written safety policy states that “[n]ot abiding by safety practices and procedures has tremendous consequences” and will lead to disciplinary actions against the employees who violate them. “The safety of our passengers and the safety of our employees is our foremost concern. This concern must be shared by all of our employees daily in their adherence to safe driving and in all other aspects of their employment.” The policy lists 17 driving-related violations that will result in immediate termination, without exception, including careless driving and “[a] rear end collision where we hit another vehicle in the rear.” Anderson acknowledged that he had received a copy of and was aware of the safety policy and manual.

On October 27, 2010, Anderson reported to the company dispatcher that he had been involved in an accident while transporting a client in a company vehicle. The

accident occurred when he received a radio call from his dispatcher, took his eyes off the road when he reached for the radio control, drove through a red light, and collided with another vehicle, causing \$2,983.37 in damages to the company vehicle. Transit Team discharged him the same day for being involved in “[a] rear end collision where we hit another vehicle in the rear” in violation of the safety policy.

Anderson applied for unemployment benefits, and the Minnesota Department of Employment and Economic Development (DEED) issued a determination of ineligibility. Anderson appealed that determination and, following a de novo hearing, the ULJ ruled that he was discharged for employment misconduct and ineligible for benefits. Anderson requested reconsideration, and the ULJ affirmed. This certiorari appeal followed.

D E C I S I O N

When reviewing the decision of a ULJ, we may affirm the decision, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because the findings, inferences, conclusion, or decision are affected by error of law or unsupported by substantial evidence in the record. Minn. Stat. § 268.105, subd. 7(d) (2010). We view the ULJ's “factual findings in the light most favorable to the decision and should not disturb those findings as long as there is evidence in the record that reasonably tends to sustain them.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011). “When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony.” Minn. Stat. § 268.105, subd. 1(c) (2010). “[W]hether a

particular act constitutes disqualifying misconduct is a question of law that we review de novo.” *Stagg*, 796 N.W.2d at 315.

Anderson first challenges the ULJ’s decision to credit the testimony of Transit Team’s witness that he hit the other vehicle in the rear, based on Anderson’s report to the dispatcher, rather than Anderson’s testimony that he hit it in the rear of the passenger side. He also asserts that before discharging him Transit Team failed to investigate the details of the accident, which he contends would have shown that he hit the other vehicle on the passenger side.

First, the ULJ explained that the testimony of Transit Team’s witness was credited over Anderson’s testimony as to where the other vehicle was hit because the witness was able to recall specific details and provide corroborating evidence in support of her testimony. This explanation meets the requirement that the ULJ “must set out the reason for crediting or discrediting that testimony.” Minn. Stat. § 268.105, subd. 1(c) (2010). Second, the ULJ had substantial evidence in the record to support the finding that Anderson hit the other vehicle in the rear, and we uphold this finding.

Next, we address Anderson’s claim that he was not discharged for employment misconduct. An employee who is discharged for employment misconduct is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2010). Employment misconduct includes “any intentional, negligent, or indifferent conduct, on the job or off the job that displays clearly: a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee.” Minn. Stat. § 268.095, subd. 6(a)(1) (2010). “As a general rule, refusing to abide by an employer’s reasonable policies and

requests amounts to disqualifying misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002). “An employer has the right to expect its employees not to engage in conduct that seriously endangers people’s safety.” *Hayes v. Wrico Stamping Griffiths Corp.*, 490 N.W2d 672, 675 (Minn. App. 1992).

The ULJ ruled that an employer has a right to expect its employees to follow company policy and procedures relating to driving the company vehicle and to drive safely, especially when they are responsible for transporting clients. The ULJ found that Anderson’s conduct demonstrated a serious violation of the standards of behavior that his employer had the right to reasonably expect, when he drove the company vehicle negligently and hit the other vehicle in the rear in an accident that was serious enough to cause \$2,983.37 worth of damage to the company vehicle. The ULJ found it irrelevant where in the rear that Anderson hit the other vehicle.

Anderson argues that Team Transit should not have fired him for being involved in a rear-end collision under the safety policy because he hit the other vehicle in the rear of its passenger side, not in the rear of the vehicle, and that it was relevant whether he proved it was not a rear-end crash. First, the ULJ found that the hit occurred in the rear of the vehicle, and, as discussed above, this finding is supported by substantial evidence in the record and upheld. Next, we acknowledge that the facts, as found by the ULJ, do not show a typical rear-end collision caused by one vehicle following another vehicle too closely. Nonetheless, there can be no doubt that Anderson violated Team Transit’s safety policy when he drove a company vehicle while transporting a client and became distracted by a radio call, took his eyes off the road, drove through a red light, and

collided with another vehicle. Team Transit made the safety of its passengers and its employees its “foremost concern,” which it said “must be shared by all of our employees daily in their adherence to safe driving and in all other aspects of their employment.” As the ULJ ruled, Anderson’s actions constituted a serious violation of the standards of behavior that Team Transit had the right to reasonably expect and he was discharged for employment misconduct, making him ineligible for unemployment benefits.

Affirmed.